

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.238 OF 2007**

1.Pintu Bama Damde
2.Prashant Ramakant Patil ...Applicants.
V/s.
The State of Maharashtra ...Respondent.

Shri K.S.Patil, adv. for the Applicant.
Shri U.V.Nikam, APP for the Respondent/State.

**CORAM: J.H.BHATIA, J.
DATE : 13th February, 2007.**

P.C.:

1. Heard Shri Patil, the learned counsel for the applicant and Mr.U.V.Nikam, the learned APP for the State.

2. The applicants, who are accused in Crime No.438 of 2006 registered at Panvel Police Station for the offences punishable under Sections 341, 326, 504 read with Section 34 of the I.P.C., seek anticipatory bail.

3. Prosecution case in brief is that the complainant Vitthal Pundlik Damde is brother of the accused Bama. Applicant no.1 Pintu is the son of accused Bama. The applicant Prashant and accused no.3 Premchand, who is not the applicant before this Court are relatives of Bama. Certain plot was allotted to the

complainant Vitthal and his brothers by CIDCO under 12.5% scheme. Applicant no.1 Pintu was insisting that the property be sold away and the sale proceeds be equally distributed between the complainant Vitthal and Bama to which the complainant did not agree. According to him, all the brothers and sisters had share in the money. On 13-11-2006 at about 10.30 a.m., Bama, his son and applicant no.2 abruptly assaulted the complainant Vitthal. During that incident, accused Premchand gave blow with iron rod on the head of Vitthal due to which he suffered bleeding injuries. Some of the injuries were also caused by remaining accused. Accused Bama is granted anticipatory bail by the Sessions court in view of his age while application to the extent of present applicants came to be rejected. I have gone through the medical report of Vitthal which shows that he had suffered some injuries including contused lacerated wound on the head. There is no fracture. As such prima-facie Section 326 does not apply. The offences may be under Sections 341, 324, 504 read with Section 34 of the I.P.C. Head injury was caused by Premchand and not by the accused/applicants. Therefore, I find it a fit case for grant of anticipatory bail to the present applicants.

4. In the event of arrest, the applicant no.1

Pintu and applicant no.2 Prakash be released in Crime No.438 of 2006 registered at Panvel Police Station on their executing P.R.Bond of Rs.15,000/- each with surety of like amount with the condition that they shall not tamper the prosecution evidence and shall make themselves available to the police as and when required for the purpose of interrogation.

(J.H.Bhatia, J.)